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Single Bench

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

Cr.R.No. 120/2006

827/06

Filed on 21/2/06
by Shri T.K. Tiwari
Advocate
R to C 21/2/06

APPLICANT : Sajal Pandey s/o Shri G.R. Pandey,
aged about 35 years,
Occupation - Business, R/o 38 GhoshPara Lane,
Hind Motor Hughly, Distt. Hughly (W.B.)

VERSUS.

NON-APPLICANT : Smt. ArPana Pandey, aged about 32 years,
W/o Sajal Pandey, R/o C/o Vinod Kumar Pathak,
S.D.O.P.W.D. 240 Mohan Nagar, Durg,
Thana Mohannagar, Tah. & Distt.Durg (C.G.).

397/401

APPLICATION U/S 482 of the Cr.P.C.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.Rev. 120/06 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	03.04.2006 Applicant by Shri T.K.Tiwari, Advocate. Heard on admission. This revision is directed against an order dated 16th January 2006 passed by 7th Additional Sessions Judge (F.T.C.), Durg in Criminal Revision No.343/2004 rejecting the preliminary objection of the applicant herein regarding the maintainability of the revision. Brief facts are that on an application filed by Shri Arpana Pandey, non-applicant herein, under Section 125 Cr.P.C., the Judicial Magistrate First Class, Durg in Miscellaneous Judicial Case No.59/2004, passed an order dated 6.9.2004 granting interim maintenance in favour of Smt. Arpana Pandey. A Criminal Revision No.343/2004 was preferred by the applicant against the said order. Family Court was established during pendency of the revision. A preliminary objection was filed by the applicant herein that in view of the constitution of the Family Courts and Sections 7 and 8 of the Family Courts Act, 1984 (hereinafter referred to as 'the Act, 1984), the Hon'ble High Court alone had the jurisdiction to hear the criminal revision. This application was dismissed by the impugned order dated 16.1.2006.	

-2- [पीछे देखिये

(32)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Cr. Rev. 120/2006

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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Having heard the learned counsel for the applicant, this Criminal Revision is devoid of merit. Under Section 19(1) of the Act, 1984, the High Court exercises jurisdiction to hear an appeal and under Section 19(4) to exercise the revisional jurisdiction only against an order passed by the Family Court. The proviso to Section 19 (1) of the Act, 1984 also shows that no appeal lies to the High Court regarding any order passed under Chapter IX of the Code of Criminal Procedure, 1973, before the commencement of the Family Courts (Amendment) Act 1991.

Under Section 8 of the Act, upon establishment of a Family Court for any area, no district Court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the *Explanation* to that sub-section. A Criminal Revision preferred against an order of interim maintenance passed by the Magistrate under Section 125 Cr.P.C. is not included in the *Explanation* to Section 7 of the Act. Under Section 19 (1) and (4) of the Act, the High Court has jurisdiction to hear an appeal or a revision against any order passed by a Family Court only after establishment of the Family Court. Thus, before the establishment of the Family Courts, the revisional

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18.4.06

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Cr.Rev. 120/2006

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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jurisdiction of the Sessions Judge in relation to an interim order passed under Chapter IX of the Code of Civil Procedure, 1973 remains intact. In other words, a Sessions Judge would not cease to have jurisdiction to hear and decide a pending Criminal Revision against an order of interim maintenance passed by the Judicial Magistrate First Class before the establishment of Family Court. In this view of the matter, the impugned order does not suffer from any illegality.

In the result this revision being devoid of merit is dismissed at the admission stage.

Sd/-
Dilip Raosaheb Deshmukh
Judge